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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,277	08/22/2005	Charles Laubie	5310-08000	8981
35690	7590	01/08/2008	EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398				ELDRED, JOHN W
ART UNIT		PAPER NUMBER		
		3641		
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		01/08/2008		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/519,277	LAUBIE, CHARLES	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOHN Woodrow ELDRED	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02282005, 03162005</u> .                                      | 6) <input type="checkbox"/> Other: ____ .                         |

## **DETAILED ACTION**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3 and 6-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, "axial fastening" is vague and indefinite since it is not clear what claimed elements are being fastened and it is not clear if the fastener is "axial" or if the fastening is to prevent axial movement. Also in claim 3, "reinforcing seam" is vague and indefinite since it is not clear where a seam is formed or what is being reinforced (or to what it is being relatively reinforced). In claim 6 and all other claims where the terms are used, the phrases "first sleeve" and "second sleeve" are unclear and indefinite. It appears that these terms are being used to claim the same sleeve (or sleeves if the "protective ring" is considered a sleeve) as already claimed in claims 1-5, so duplicate elements are being claimed. Alternatively, it is possible that two new sleeves are being claimed (giving a total of three or four sleeves) but this does not appear to be supported by the remainder of the specification.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 5, 8, and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO/98/44309.

WO/98/44309 discloses a protective device comprising all claimed elements including a plurality of sleeves 6 of "splinter-proof" fabric; a "reinforcing ring" 8 of aluminum foil that provides the sleeves with "sufficient rigidity to enable it to be placed in the open state without

“falling over” (page 3); a “reinforcing web” or packaging sheet 9; where the sleeves are open at at least one end and can be placed to surround an explosive resting on a surface.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 6, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO/98/44309 in view of EP0511182.

WO/98/44309 discloses a protective device comprising all claimed elements including a plurality of sleeves 6 of “splinter-proof” fabric; a “reinforcing ring” 8 of aluminum foil that provides the sleeves with “sufficient rigidity to enable it to be placed in the open state without falling over” (page 3); a “reinforcing web” or packaging sheet 9; where the sleeves are open at at least one end and can be placed to surround an explosive resting on a surface. WO/98/44309 fails to show the sleeves being slidable relative to each other. EP0511182 teaches that it is known to have a blast protective device comprising a plurality of sleeves or canisters 9-14 (see Figure 4) that are placed inside of each other and are inherently “slidable” relative to each other since they are not held together. Motivation to combine is the advantage of easier storage, less weight to move, and greater versatility of combining sleeves when the sleeves are separate from each other but can be nested to provide the required amount of protection (column 4, lines 44-51). To employ the teachings of EP0511182 and have the sleeves slidable relative to each other is considered to have been obvious to one having ordinary skill in the art.

In regard to claim 3, it is possible to consider one of the sleeves 6 to be a “protective ring” and the connection of the sleeves together form an “axial fastening”. It is either inherent or obvious that the fabric is formed with a “seam” to join the length of fabric together to form the cylinder.

Art Unit: 3641

7. Claims 7, 11, 12, and 14-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pastrnak et al and Kim et al are cited as being of interest since they disclose blast protection apparatus.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN Woodrow ELDRED whose telephone number is (571)272-6901. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Woodrow Eldred/

Primary Examiner

Art Unit 3641

JWE

Application/Control Number: 10/519,277  
Art Unit: 3641

Page 5